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Letter dated 17 July 2016 from the Permanent Representative of Iran to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, my delegation will refrain from participating in the meeting of the Security Council to consider the report of the Secretary-General on the implementation of resolution 2231 (2015) (S/2016/589), as we consider the report and any consideration thereof to be in total contravention of the letter and spirit of the Joint Comprehensive Plan of Action and even resolution 2231 (2015) itself for the following reasons:

1. While, in the note of the President of the Security Council (S/2016/44), the Secretary-General was clearly mandated, in paragraph 7, "to report to the Security Council every six months on the implementation of resolution 2231 (2015)", the report is predicated solely on a reference in annex B of the resolution, which contains a proposal by six Member States that "the Security Council ask the Secretary-General to report to the Security Council on the implementation of these provisions every six months", and not on a decision by the Council, which is incorporated later into the note referred to above. The last sentence of paragraph 3 of the report and the word "request" in the following paragraph are reflective of the incorrect understanding by the Secretariat of the mandate received from the Council. A similar mandate is given to the facilitator in paragraph 3 of note 2016/44, which reads, "The facilitator shall brief the other members of the Council on its work and the implementation of the resolution every six months." It is evident that resolution 2231 (2015) consists of the body of the resolution plus its annexes A and B. It is equally evident that the report of the Secretary-General and the facilitator should cover resolution 2231 (2015) in its entirety, including its annex A, containing the Joint Comprehensive Plan of Action, which is recognized globally as a historic diplomatic achievement, is endorsed by the Security Council and constitutes the core of resolution 2231 (2015). Any report should take into full account the raison d'être of the Plan of Action and its critical function in resolving a long-standing international issue.

2. As a result of the misinterpretation of the mandate, as explained above, the drafters of the report have overrated annex B at the expense of resolution 2231 (2015) itself and its most important part, that is, the text of the Joint Comprehensive Plan of Action, and the obligations therein, contained in annex A. The drafters of the report have also totally ignored the objectives and spirit of the Iran-E3/EU+3 negotiations and the *travaux préparatoires* of the Plan of Action.

3. We believe that the report is also contradictory to the change of paradigm and tone that the Security Council itself has unambiguously set for post-Plan of Action relations between Iran and the Council by affirming that conclusion of the Joint Comprehensive Plan of Action marks a fundamental shift in its consideration of this issue, and expressing its desire to build a new relationship with Iran strengthened by the implementation of the Plan of Action. The language of the report continues to adhere to the old pattern, which is reflective of the outdated confrontational approach that used to characterize the pre-Plan of Action period.

4. It is important to note that resolution 2231 (2015) unambiguously considers the "conclusion" and "implementation" of the Joint Comprehensive Plan of Action, and not annex B of the resolution nor even the resolution itself, as the basis for this "fundamental shift". Iran has fully honoured its commitments under the Plan of Action, as verified repeatedly by the International Atomic Energy Agency (IAEA) and, at the very least, expects to see this "fundamental shift" in its treatment by the Security Council and the Secretary-General. It is unfortunate that this first report on the implementation of resolution 2231 (2015) does not live up to that expectation, is devoid of taking into account the "fundamental shift" in the Security Council's consideration of this issue and fails to indicate the building of a new relationship with Iran.

5. The imprudence shown in the report may cause irreparable harm to the historic, yet vulnerable, nuclear deal, which has already been subjected to justifiable criticism due to the failure of the United States to abide fully by its commitments. The drafters of the report seem to have neglected the fact that pressure, intimidation and disinformation against Iran in the past failed miserably to achieve any goals, and only reciprocal gains can make international regimes and agreements, including the Joint Comprehensive Plan of Action, sustainable. The Iranian leadership and people rightly feel that Iran has yet to receive tangible economic dividends from its faithful implementation of the Plan of Action. While Iran has made a full investment in compliance by verifiably fulfilling its obligations under the Plan of Action, the changes in the economic environment have been incremental, very slow and cumbersome. The report adds insult to injury, making habitual adverse, unsubstantiated and irrelevant politically motivated assertions against Iran. In the face of the slow removal of the impediments to full enjoyment by Iran of economic promises made through the Plan of Action, this report undermines even its political dividends.

6. We believe that, in failing to reflect that "fundamental shift", the first report on the implementation of resolution 2231 (2015), has exposed the Joint Comprehensive Plan of Action to undue distress by being unbalanced, one-sided, biased and judgmental, reminiscent of the pre-Plan of Action attitude shown by the United Nations towards Iran.

7. The drafters of the report, who have never been involved in negotiating or implementing the Joint Comprehensive Plan of Action, have evidently underestimated, in fact taken for granted, Iran's IAEA-verified full compliance with its Plan of Action commitments. They have further brushed aside the globally acknowledged shortcomings with respect to the impact of sanctions-lifting provisions of the resolution and its annex A. At the same time, the report has failed to note Iran's clearly stated positions contained in document S/2015/550 and has also disproportionately exaggerated unverified allegations of Iran's conduct vis-à-vis

certain provisions of annex B by passing extralegal judgments even outside the scope of the resolution and its annexes.

8. The report has chosen to ignore or explain away Iran's grievances regarding the effective non-performance by certain Joint Comprehensive Plan of Action participants. The report has, instead, explained those failures away by stating that implementation challenges exist for any agreement, let alone one as comprehensive and complex as this Plan of Action. This selective approach has made the report one-sided and unbalanced. The drafters of the report were expected to urge the United States, and the E3/EU+3 as a whole, to implement their sanctions-lifting commitments under the Plan of Action.

9. In sharp contrast to the Joint Comprehensive Plan of Action, the report has repeated and elaborated, in detail, three instances of Iran's alleged conduct vis-à-vis certain provisions of annex B, mostly based on information received from open sources or from one particular Security Council Member State, without much regard for Iran's view on each allegation. The report's proclamation of the intention to pursue these allegations signals the continuation of pre-Plan of Action attitudes based on pre-disposition, hostility and disinformation. While we had hoped to count the Secretariat among the proponents of the Plan of Action, this proclivity would not help advance the goals of this major deal.

10. The Secretariat quotes the United States and the E3, alleging, without even enjoying the support of other Plan of Action participants, that Iran's recent ballistic missile launches were inconsistent with resolution 2231 (2015), and calls upon Iran to avoid such activities because they might potentially "increase tensions in the region". This new concept, coined by the United States and repeated by the drafters of the report, goes beyond the mandate of the Secretary-General and is extraneous to the subject of resolution 2231 (2015). Furthermore, as clearly articulated in the statement of the Islamic Republic of Iran following the adoption of Security Council resolution 2231 (2015) endorsing the Joint Comprehensive Plan of Action (S/2015/550), even the phraseology of annex B of resolution 2231 (2015) with respect to Iran's ballistic missile programme leaves no doubt that Iran's recent launches could not be qualified as being inconsistent with annex B of the resolution, since they are not "designed" to be capable of delivering nuclear warheads. The deliberate addition of the phrase "designed to be" to the wording "capable of delivering nuclear weapons" used in terminated Security Council resolution 1929 (2010), was a deliberate modification following lengthy negotiations in order to exclude Iran's defensive missile programme "designed" exclusively for conventional warheads. The fact that Iran has never been on the path to acquiring nuclear weapons, and is committed by the Plan of Action not to follow such a path, makes the accusations against our conventional missile programme all the more irrelevant and extraneous. This and other wording modifications, and the context of the relevant part of annex B, signify the intention of the Security Council to modify its tone on the missile issue and make it all a non-obligatory invitation to Iran.

11. The report seems to suggest that resolution 2231 (2015) has "established" a new "2231 list" of sanctioned entities and individuals. This is dangerously misleading, since resolution 2231 (2015) terminated all previous resolutions, including by delisting many entities and individuals listed under those resolutions. Those remaining entities and individuals from previous resolutions — never accepted by Iran, as also set out in document S/2015/550 — are set to be

delisted no later than eight years after Implementation Day, and earlier in all likelihood.

12. We did convey our views to the Secretariat in time to remedy the above-mentioned deficiencies and avoid undermining the Joint Comprehensive Plan of Action. Producing a factual, balanced and relevant report, particularly by not justifying the globally recognized deficiencies in the fulfilment of sanctions-lifting obligations, and refraining from commenting on regional issues, which are absolutely extraneous to the letter and spirit of the resolution and its annexes, could have led to a forward-looking and constructive report that could have best served the Plan of Action against the existing challenges. It is unfortunate that the drafters of the report persisted in their biased approach and chose not to act within their clear mandate.

I would be grateful if you could have the present letter brought to the attention of the members of the Security Council before the scheduled meeting to consider the report and have it reflected in the proceedings of the meeting, as well as circulated as a document of the Security Council.

(*Signed*) Gholamali **Khoshroo**
Ambassador
Permanent Representative